

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
TEXARKANA DIVISION

AUSTIN COOPER

PETITIONER

VS.

CASE NO. 06-CV-4108

LARRY NORRIS, Director,  
Arkansas Department of Corrections

RESPONDENT

**ORDER**

On September 20, 2007, after reviewing the record *de novo* and considering Plaintiff Austin Cooper's objections, the Court adopted (Doc. 19) the Report and Recommendation (Doc. 8) of the Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas and dismissed Cooper's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. Now before the Court is Plaintiff Austin Cooper's Motion for Certificate of Appealability, (Doc. 21) in which Cooper seeks leave to appeal the dismissal of his petition to the Eighth Circuit Court of Appeals.

28 U.S.C. § 2253 controls appellate review of final orders of district courts in habeas cases. Section 2253 provides, in relevant part: "a certificate of appealability may issue...only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). "A substantial showing is a showing that issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings." *Garrett v. U.S.*, 211 F.3d 1075, 1076 -77 (8th Cir. 2000)(*quoting Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997), *cert. denied*, 525 U.S. 834, 119 S.Ct. 89, 142 L.Ed.2d 70 (1998)). Without a certificate of appealability, an appeal of this Court's denial of Cooper's habeas petition may not be taken to the Eighth Circuit Court of Appeals. 28 U.S.C. § 2253(c)(1).

The Court's review of Cooper's habeas petition and associated pleadings reveals the presence of issues debatable among reasonable jurists. Accordingly, Austin Cooper's Motion for Certificate of Appealability should be and hereby is **GRANTED**.

**IT IS SO ORDERED**, this 11th day of October, 2007.

/s/Harry F. Barnes  
Hon. Harry F. Barnes  
United States District Judge